



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2010 REGULAR SESSION

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SENATE BILL NO. 4

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WEDNESDAY, MARCH 17, 2010

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The following bill was reported to the House from the Senate and ordered to be printed.

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TREY GRAYSON  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY R. Allen

AN ACT relating to anatomical gifts.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
READ AS FOLLOWS:

*As used in Sections 1 to 25 of this Act:*

*(1) "Adult" means an individual who is at least eighteen (18) years of age;*

*(2) "Agent" means an individual:*

*(a) Authorized to make health-care decisions on the principal's behalf by a power of attorney for health care; or*

*(b) Expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal;*

*(3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education;*

*(4) "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift. The term includes a stillborn infant and, subject to restrictions imposed by law other than Sections 1 to 25 of this Act, a fetus, however, the term "fetus" does not include a blastocyst, embryo, or fetus that was the subject of an induced abortion;*

*(5) "Disinterested witness" means a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the individual. The term does not include a person to which an anatomical gift could pass under Section 10 of this Act;*

*(6) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card, or donor registry;*

- 1 (7) "Donor" means an individual whose body or part is the subject of an anatomical  
 2 gift;
- 3 (8) "Donor registry" means a database that contains records of anatomical gifts and  
 4 amendments to or revocations of anatomical gifts;
- 5 (9) "Drivers license" means a license or permit issued by the Transportation Cabinet  
 6 to operate a vehicle, whether or not conditions are attached to the license or  
 7 permit;
- 8 (10) "Eye bank" means a person that is licensed, accredited, or regulated under  
 9 federal or state law to engage in the recovery, screening, testing, processing,  
 10 storage, or distribution of human eyes or portions of human eyes;
- 11 (11) "Guardian" means a person appointed by a court to make decisions regarding  
 12 the support, care, education, health, or welfare of an individual. The term does  
 13 not include a guardian ad litem;
- 14 (12) "Hospital" means a facility licensed as a hospital under the law of any state or a  
 15 facility operated as a hospital by the United States, a state, or a subdivision of a  
 16 state;
- 17 (13) "Identification card" means an identification card issued by the Transportation  
 18 Cabinet;
- 19 (14) "Know" means to have actual knowledge;
- 20 (15) "Minor" means an individual who is under eighteen (18) years of age;
- 21 (16) "Organ procurement organization" means a person designated by the Secretary  
 22 of the United States Department of Health and Human Services as an organ  
 23 procurement organization;
- 24 (17) "Parent" means a parent whose parental rights have not been terminated;
- 25 (18) "Part" means an organ, an eye, or tissue of a human being. The term does not  
 26 include the whole body;
- 27 (19) "Person" means an individual, corporation, business trust, estate, trust,

1 partnership, limited liability company, association, joint venture, public  
 2 corporation, government or governmental subdivision, agency, or  
 3 instrumentality, or any other legal or commercial entity;

4 (20) "Physician" means an individual authorized to practice medicine or osteopathy  
 5 under the law of any state;

6 (21) "Procurement organization" means an eye bank, organ procurement  
 7 organization, or tissue bank;

8 (22) "Prospective donor" means an individual who is dead or near death and has  
 9 been determined by a procurement organization to have a part that could be  
 10 medically suitable for transplantation, therapy, research, or education. The term  
 11 does not include an individual who has made a refusal;

12 (23) "Reasonably available" means able to be contacted by a procurement  
 13 organization without undue effort and willing and able to act in a timely manner  
 14 consistent with existing medical criteria necessary for the making of an  
 15 anatomical gift;

16 (24) "Recipient" means an individual into whose body a decedent's part has been or  
 17 is intended to be transplanted;

18 (25) "Record" means information that is inscribed on a tangible medium or that is  
 19 stored in an electronic or other medium and is retrievable in perceivable form;

20 (26) "Refusal" means a record created under Section 6 of this Act that expressly  
 21 states an intent to bar other persons from making an anatomical gift of an  
 22 individual's body or part;

23 (27) "Sign" means, with the present intent to authenticate or adopt a record:

24 (a) To execute or adopt a tangible symbol; or

25 (b) To attach to or logically associate with the record an electronic symbol,  
 26 sound, or process;

27 (28) "State" means a state of the United States, the District of Columbia, Puerto Rico,

1 the United States Virgin Islands, or any territory or insular possession subject to  
 2 the jurisdiction of the United States;

3 (29) "Technician" means an individual determined to be qualified to remove or  
 4 process parts by an appropriate organization that is licensed, accredited, or  
 5 regulated under federal or state law. The term includes an ocular enucleator;

6 (30) "Tissue" means a portion of the human body other than an organ or an eye. The  
 7 term does not include:

8 (a) Blood unless the blood is donated for the purpose of research or education;

9 or

10 (b) An ovum or sperm for the purpose of creating an embryo to be used in  
 11 therapy, research, or education;

12 (31) "Tissue bank" means a person that is licensed, accredited, or regulated under  
 13 federal or state law to engage in the recovery, screening, testing, processing,  
 14 storage, or distribution of tissue; and

15 (32) "Transplant hospital" means a hospital that furnishes organ transplants and  
 16 other medical and surgical specialty services required for the care of transplant  
 17 patients.

18 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
 19 READ AS FOLLOWS:

20 Sections 1 to 25 of this Act apply to an anatomical gift or amendment to, revocation of,  
 21 or refusal to make an anatomical gift, whenever made.

22 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
 23 READ AS FOLLOWS:

24 Subject to Section 7 of this Act, an anatomical gift of a donor's body or part may be  
 25 made during the life of the donor for the purpose of transplantation, therapy, research,  
 26 or education in the manner provided in Section 4 of this Act by:

27 (1) The donor, if the donor is an adult or if the donor is a minor and is:

- 1        (a) Emancipated; or
- 2        (b) Authorized under state law to apply for a driver's license because the donor
- 3            is at least sixteen (16) years of age;
- 4        (2) An agent of the donor, unless the power of attorney for health care or other
- 5            record prohibits the agent from making an anatomical gift;
- 6        (3) A parent of the donor, if the donor is an unemancipated minor; or
- 7        (4) The donor's guardian.

8        ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
9 READ AS FOLLOWS:

- 10       (1) A donor may make an anatomical gift:
- 11           (a) By authorizing a statement or symbol indicating that the donor has made an
- 12           anatomical gift to be imprinted on the donor's driver's license or
- 13           identification card;
- 14           (b) In a will;
- 15           (c) During a terminal illness or injury of the donor, by any form of
- 16           communication addressed to at least two (2) adults, at least one (1) of whom
- 17           is a disinterested witness; or
- 18           (d) As provided in subsection (2) of this section.
- 19       (2) A donor or other person authorized to make an anatomical gift under Section 3
- 20           of this Act may make a gift by a donor card or other record signed by the donor
- 21           or other person making the gift or by authorizing that a statement or symbol
- 22           indicating that the donor has made an anatomical gift be included on a donor
- 23           registry. If the donor or other person is physically unable to sign a record, the
- 24           record may be signed by another individual at the direction of the donor or other
- 25           person and shall:
- 26           (a) Be witnessed by at least two (2) adults, at least one (1) of whom is a
- 27           disinterested witness, who have signed at the request of the donor or the

1           other person; and

2           (b) State that it has been signed and witnessed as provided in paragraph (a) of  
 3           this subsection.

4           (3) Revocation, suspension, expiration, or cancellation of a driver's license or  
 5           identification card upon which an anatomical gift is indicated does not invalidate  
 6           the gift.

7           (4) An anatomical gift made by will takes effect upon the donor's death whether or  
 8           not the will is probated. Invalidation of the will after the donor's death does not  
 9           invalidate the gift.

10          (5) The making of an anatomical gift shall not under any circumstances be  
 11          construed to authorize or direct the denial of health care or hydration and  
 12          nourishment when the withholding or withdrawal of health care or hydration  
 13          and nourishment will result in or hasten death.

14          ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
 15          READ AS FOLLOWS:

16          (1) Subject to Section 7 of this Act, a donor or other person authorized to make an  
 17          anatomical gift under Section 3 of this Act may amend or revoke an anatomical  
 18          gift by:

19          (a) A record signed by:

20                  1. The donor;

21                  2. The other person; or

22                  3. Subject to subsection (2) of this section, another individual acting at  
 23                  the direction of the donor or the other person if the donor or other  
 24                  person is physically unable to sign; or

25          (b) A later-executed document of gift that amends or revokes a previous  
 26          anatomical gift or portion of an anatomical gift, either expressly or by  
 27          inconsistency.

(2) A record signed pursuant to subsection (1)(a)3. of this section shall:

(a) Be witnessed by at least two (2) adults, at least one (1) of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(b) State that it has been signed and witnessed as provided in paragraph (a) of this subsection.

(3) Subject to Section 7 of this Act, a donor or other person authorized to make an anatomical gift under Section 3 of this Act may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(4) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two (2) adults, at least one (1) of whom is a disinterested witness.

(5) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (1) of this section.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) An individual may refuse to make an anatomical gift of the individual's body or part by:

(a) A record signed by:

1. The individual; or

2. Subject to subsection (2) of this section, another individual acting at the direction of the individual if the individual is physically unable to sign;

(b) The individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or



1        (c) Any form of communication made by the individual during the individual's  
 2        terminal illness or injury addressed to at least two (2) adults, at least one (1)  
 3        of whom is a disinterested witness.

4        (2) A record signed pursuant to subsection (1)(a)2. of this section shall:

5        (a) Be witnessed by at least two (2) adults, at least one (1) of whom is a  
 6        disinterested witness, who have signed at the request of the individual; and

7        (b) State that it has been signed and witnessed as provided in paragraph (a) of  
 8        this subsection.

9        (3) An individual who has made a refusal may amend or revoke the refusal:

10       (a) In the manner provided in subsection (1) of this section for making a  
 11       refusal;

12       (b) By subsequently making an anatomical gift pursuant to Section 4 of this  
 13       Act that is inconsistent with the refusal; or

14       (c) By destroying or canceling the record evidencing the refusal, or the portion  
 15       of the record used to make the refusal, with the intent to revoke the refusal.

16       (4) Except as otherwise provided in subsection (8) of Section 7 of this Act, in the  
 17       absence of an express, contrary indication by the individual set forth in the  
 18       refusal, an individual's unrevoked refusal to make an anatomical gift of the  
 19       individual's body or part bars all other persons from making an anatomical gift  
 20       of the individual's body or part.

21       ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
 22       READ AS FOLLOWS:

23       (1) Except as otherwise provided in subsection (7) of this section and subject to  
 24       subsection (6) of this section, in the absence of an express, contrary indication by  
 25       the donor, a person other than the donor is barred from making, amending, or  
 26       revoking an anatomical gift of a donor's body or part if the donor made an  
 27       anatomical gift of the donor's body or part under Section 4 of this Act or an

1 amendment to an anatomical gift of the donor's body or part under Section 5 of  
 2 this Act.

3 (2) A donor's revocation of an anatomical gift of the donor's body or part under  
 4 Section 5 of this Act is not a refusal and does not bar another person specified in  
 5 Section 3 or 8 of this Act from making an anatomical gift of the donor's body or  
 6 part under Section 4 or 9 of this Act.

7 (3) If a person other than the donor makes an unrevoked anatomical gift of the  
 8 donor's body or part under Section 4 of this Act or an amendment to an  
 9 anatomical gift of the donor's body or part under Section 5 of this Act, another  
 10 person may not make, amend, or revoke the gift of the donor's body or part under  
 11 Section 9 of this Act.

12 (4) A revocation of an anatomical gift of a donor's body or part under Section 5 of  
 13 this Act by a person other than the donor does not bar another person from  
 14 making an anatomical gift of the body or part under Section 4 or 9 of this Act.

15 (5) In the absence of an express, contrary indication by the donor or other person  
 16 authorized to make an anatomical gift under Section 3 of this Act, an anatomical  
 17 gift of a part is neither a refusal to give another part nor a limitation on the  
 18 making of an anatomical gift of another part at a later time by the donor or  
 19 another person.

20 (6) In the absence of an express, contrary indication by the donor or other person  
 21 authorized to make an anatomical gift under Section 3 of this Act, an anatomical  
 22 gift of a part for one (1) or more of the purposes set forth in Section 3 of this Act  
 23 is not a limitation on the making of an anatomical gift of the part for any of the  
 24 other purposes by the donor or any other person under Section 4 or 9 of this Act.

25 (7) If a donor who is an unemancipated minor dies, a parent of the donor who is  
 26 reasonably available may revoke or amend an anatomical gift of the donor's body  
 27 or part.

**(8) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.**

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

**(1) Subject to subsections (2) and (3) of this section and unless barred by Section 6 or 7 of this Act, an anatomical gift of a decedent's body or part for purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:**

**(a) An agent of the decedent at the time of death who could have made an anatomical gift under subsection (2) of Section 3 of this Act immediately before the decedent's death;**

**(b) The spouse of the decedent;**

**(c) Adult children of the decedent;**

**(d) Parents of the decedent;**

**(e) Adult siblings of the decedent;**

**(f) Adult grandchildren of the decedent;**

**(g) Grandparents of the decedent; and**

**(h) The persons who were acting as the guardians of the person of the decedent at the time of death.**

**(2) If there is more than one (1) member of a class listed in paragraph (a), (c), (d), (e), (f), (g), or (h) of subsection (1) of this section entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under Section 10 of this Act knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.**

(3) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (1) of this section is reasonably available to make or to object to the making of an anatomical gift.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A person authorized to make an anatomical gift under Section 8 of this Act may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(2) Subject to subsection (3) of this section, an anatomical gift by a person authorized under Section 8 of this Act may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one (1) member of the prior class is reasonably available, the gift made by a person authorized under Section 8 of this Act may be:

(a) Amended only if a majority of the reasonably available members agree to the amending of the gift; or

(b) Revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

(3) A revocation under subsection (2) of this section is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) An anatomical gift may be made to the following persons named in the document

1 of gift:

2 (a) A hospital; accredited medical school, dental school, college, or university;  
 3 organ procurement organization; or other appropriate person, for research  
 4 or education;

5 (b) Subject to subsection (2) of this section, an individual designated by the  
 6 person making the anatomical gift if the individual is the recipient of the  
 7 part; or

8 (c) An eye bank or tissue bank.

9 (2) If an anatomical gift to an individual under paragraph (b) of subsection (1) of  
 10 this section cannot be transplanted into the individual, the part passes in  
 11 accordance with subsection (7) of this section in the absence of an express,  
 12 contrary indication by the person making the anatomical gift.

13 (3) If an anatomical gift of one (1) or more specific parts or of all parts is made in a  
 14 document of gift that does not name a person described in subsection (1) of this  
 15 section but identifies the purpose for which an anatomical gift may be used, the  
 16 following rules apply:

17 (a) If the part is an eye and the gift is for the purpose of transplantation or  
 18 therapy, the gift passes to the appropriate eye bank;

19 (b) If the part is tissue and the gift is for the purpose of transplantation or  
 20 therapy, the gift passes to the appropriate tissue bank;

21 (c) If the part is an organ and the gift is for the purpose of transplantation or  
 22 therapy, the gift passes to the appropriate organ procurement organization  
 23 as custodian of the organ; or

24 (d) If the part is an organ, an eye, or tissue and the gift is for the purpose of  
 25 research or education, the gift passes to the appropriate procurement  
 26 organization.

27 (4) For the purpose of subsection (3) of this section, if there is more than one (1)

1 purpose of an anatomical gift set forth in the document of gift but the purposes  
 2 are not set forth in any priority, the gift shall be used for transplantation or  
 3 therapy, if suitable. If the gift cannot be used for transplantation or therapy, the  
 4 gift may be used for research or education.

5 (5) If an anatomical gift of one (1) or more specific parts is made in a document of  
 6 gift that does not name a person described in subsection (1) of this section and  
 7 does not identify the purpose of the gift, the gift may be used only for  
 8 transplantation or therapy, and the gift passes in accordance with subsection (7)  
 9 of this section.

10 (6) If a document of gift specifies only a general intent to make an anatomical gift by  
 11 words such as "donor", "organ donor", or "body donor", or by a symbol or  
 12 statement of similar import, the gift may be used only for transplantation or  
 13 therapy, and the gift passes in accordance with subsection (7) of this section.

14 (7) For purposes of subsections (2), (5), and (6) of this section the following rules  
 15 apply:

16 (a) If the part is an eye, the gift passes to the appropriate eye bank;

17 (b) If the part is tissue, the gift passes to the appropriate tissue bank, except that  
 18 a tissue bank shall not receive an ovum or sperm for the purpose of creating  
 19 an embryo to be used in therapy, research, or education; or

20 (c) If the part is an organ, the gift passes to the appropriate organ procurement  
 21 organization as custodian of the organ.

22 (8) An anatomical gift of an organ for transplantation or therapy, other than an  
 23 anatomical gift under paragraph (b) of subsection (1) of this section, passes to the  
 24 organ procurement organization as custodian of the organ.

25 (9) If an anatomical gift does not pass pursuant to subsections (1) to (8) of this  
 26 section or the decedent's body or part is not used for transplantation, therapy,  
 27 research, or education, custody of the body or part passes to the person under

obligation to dispose of the body or part.

(10) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under Section 4 or 9 of this Act or if the person knows that the decedent made a refusal under Section 6 of this Act that was not revoked. For purposes of the subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(11) Except as otherwise provided in paragraph (b) of subsection (1) of this section, nothing in Sections 1 to 25 of this Act affects the allocation of organs for transplantation or therapy.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
READ AS FOLLOWS:

(1) The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

(a) A law enforcement officer, firefighter, paramedic, or other emergency rescuer finding the individual; and

(b) If no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.

(2) If a document of gift or a refusal to make an anatomical gift is located by the search required by paragraph (a) of subsection (1) of this section, and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.

(3) A person is not subject to criminal or civil liability for failing to discharge the

1 duties imposed by this section but may be subject to administrative sanctions.

2 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
3 READ AS FOLLOWS:

4 (1) A document of gift need not be delivered during the donor's lifetime to be  
5 effective.

6 (2) Upon or after an individual's death, a person in possession of a document of gift  
7 or a refusal to make an anatomical gift with respect to the individual shall allow  
8 examination and copying of the document of gift or refusal by a person  
9 authorized to make or object to the making of an anatomical gift with respect to  
10 the individual or by a person to which the gift could pass under Section 10 of this  
11 Act.

12 ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
13 READ AS FOLLOWS:

14 (1) When a hospital refers an individual at or near death to a procurement  
15 organization, the organization shall make a reasonable search of the records of  
16 the Transportation Cabinet, the registry created under Section 19 of this Act, and  
17 any donor registry that it knows exists for the geographical area in which the  
18 individual resides to ascertain whether the individual has made an anatomical  
19 gift.

20 (2) A procurement organization shall be allowed reasonable access to information in  
21 the records of the registries listed in subsection (1) of this section to ascertain  
22 whether an individual at or near death is a donor.

23 (3) When a hospital refers an individual at or near death to a procurement  
24 organization, the organization may conduct any reasonable examination of  
25 records necessary to ensure the medical suitability of a part that is or could be the  
26 subject of an anatomical gift for transplantation, therapy, research, or education  
27 from a donor or a prospective donor. During the examination period, measures



1 necessary to ensure the medical suitability of the part may not be withdrawn  
 2 unless the hospital or procurement organization knows that the individual  
 3 expressed a contrary intent. Measures necessary to ensure the medical suitability  
 4 of the part from a prospective donor may be administered unless it is determined  
 5 that the administration of those measures would not provide the prospective  
 6 donor with appropriate end-of-life care, or it can be anticipated by reasonable  
 7 medical judgment that such measures would result in or hasten the prospective  
 8 donor's death.

9 (4) Unless prohibited by law other than Sections 1 to 25 of this Act, at any time after  
 10 a donor's death, the person to which a part passes under Section 10 of this Act  
 11 may conduct any reasonable examination necessary to ensure the medical  
 12 suitability of the body or part for its intended purpose.

13 (5) Unless prohibited by law other than Sections 1 to 25 of this Act, an examination  
 14 under subsection (3) or (4) of this section may include an examination of all  
 15 medical and dental records of the donor or prospective donor.

16 (6) Upon the death of a minor who was a donor or had signed a refusal, unless a  
 17 procurement organization knows the minor is emancipated, the procurement  
 18 organization shall conduct a reasonable search for the parents of the minor and  
 19 provide the parents with an opportunity to revoke or amend the anatomical gift or  
 20 revoke the refusal.

21 (7) Upon referral by a hospital under subsection (1) of this section, a procurement  
 22 organization shall make a reasonable search for any person listed in Section 8 of  
 23 this Act having priority to make an anatomical gift on behalf of a prospective  
 24 donor. If a procurement organization receives information that an anatomical  
 25 gift to any other person was made, amended, or revoked, it shall promptly advise  
 26 the other person of all relevant information.

27 (8) Subject to subsection (9) of Section 10 of this Act and Section 22 of this Act, the

rights of the person to which a part passes under Section 10 of this Act are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and Sections 1 to 25 of this Act, a person that accepts an anatomical gift of an entire body may allow embalming, burial, or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under Section 10 of this act, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

(9) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

(10) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
READ AS FOLLOWS:

Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section, a person that for valuable consideration, knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death shall be imprisoned in the penitentiary for not less than one (1) nor more than five (5) years or be fined not more than fifty thousand dollars (\$50,000), or both.

(2) A person may charge a reasonable amount for the removal, processing,

1       preservation, quality control, storage, transportation, implantation, or disposal of  
 2       a part.

3       ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
 4       READ AS FOLLOWS:

5       A person that, in order to obtain a financial gain, intentionally falsifies, forges,  
 6       conceals, defaces, or obliterates a document of gift, an amendment or revocation of a  
 7       document of gift, or a refusal shall be imprisoned in the penitentiary for not less than  
 8       one (1) nor more than five (5) years or be fined not more than fifty thousand dollars  
 9       (\$50,000), or both.

10       ➔SECTION 17. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
 11       READ AS FOLLOWS:

12       (1) A person that acts in accordance with Sections 1 to 25 of this Act or with the  
 13       applicable anatomical gift law of another state, or attempts in good faith to do so,  
 14       is not liable for the act in a civil action, criminal prosecution, or administrative  
 15       proceeding.

16       (2) Neither the person making an anatomical gift nor the donor's estate is liable for  
 17       any injury or damage that results from the making or use of the gift.

18       (3) In determining whether an anatomical gift has been made, amended, or revoked  
 19       under Sections 1 to 25 of this Act, a person may rely upon representations of an  
 20       individual listed in paragraph (b), (c), (d), (e), (f), or (g) of subsection (1) of  
 21       Section 8 of this Act relating to the individual's relationship to the donor or  
 22       prospective donor unless the person knows that the representation is untrue.

23       ➔SECTION 18. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
 24       READ AS FOLLOWS:

25       (1) A document of gift is valid if executed in accordance with:

26       (a) Sections 1 to 25 of this Act;

27       (b) The laws of the state or country where it was executed; or

1        (c) The laws of the state or country where the person making the anatomical  
 2        gift was domiciled, has a place of residence, or was a national at the time  
 3        the document of gift was executed.

4        (2) If a document of gift is valid under this section, the law of this state governs the  
 5        interpretation of the document of gift.

6        (3) A person may presume that a document of gift or amendment of an anatomical  
 7        gift is valid unless that person knows that it was not validly executed or was  
 8        revoked.

9        ➔Section 19. KRS 194A.750 is repealed and reenacted as a new section of KRS  
 10      Chapter 311 to read as follows:

11      (1) Contingent upon the availability of funding, the Cabinet for Health and Family  
 12      Services shall facilitate the establishment of a statewide electronic registry for organ  
 13      and tissue donation for transplantation purposes. The cabinet may contract with a  
 14      public or private nonprofit entity to perform gatekeeper functions of the registry that  
 15      include but are not limited to the operation, maintenance, privacy, and security of  
 16      the registry.

17      (2) An ongoing collaboration shall be established among the Transportation Cabinet,  
 18      the Cabinet for Health and Family Services, the Kentucky Circuit Court Clerks  
 19      Trust for Life, the Kentucky Hospital Association, the Kentucky Medical  
 20      Association, and the federally certified organ and tissue procurement organizations  
 21      that operate in Kentucky to develop strategies for the operation of the registry.  
 22      Strategies shall include but not be limited to:

- 23      (a) Donor designation at the time of application or renewal of a driver's license;
- 24      (b) Online registration as a donor;
- 25      (c) Removal or exit from the registry;
- 26      (d) Timely access to the registry by relevant parties in accordance with federal
- 27      laws and regulations relating to organ and tissue donation and procurement for

1 transplantation purposes; and

2 (e) Evaluation of the effectiveness of the registry.

3 (3) The cabinet may promulgate administrative regulations pursuant to KRS Chapter  
4 13A to implement the provisions of this section.

5 ➔SECTION 20. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
6 READ AS FOLLOWS:

7 **(1) As used in this section:**

8 **(a) "Advance health-care directive" means a power of attorney for health care**  
9 **or a record signed or authorized by a prospective donor containing the**  
10 **prospective donor's direction concerning a health-care decision for the**  
11 **prospective donor;**

12 **(b) "Declaration" means a record signed by a prospective donor specifying the**  
13 **circumstances under which a life support system may be withheld or**  
14 **withdrawn from the prospective donor; and**

15 **(c) "Health-care decision" means any decision regarding the health care of the**  
16 **prospective donor.**

17 **(2) If a prospective donor has a declaration or advance health-care directive and the**  
18 **terms of the declaration or directive and the express or implied terms of a**  
19 **potential anatomical gift are in conflict with regard to the administration of**  
20 **measures necessary to ensure the medical suitability of a part for transplantation**  
21 **or therapy, the prospective donor's attending physician and prospective donor**  
22 **shall confer to resolve the conflict. If the prospective donor is incapable of**  
23 **resolving the conflict, an agent acting under the prospective donor's declaration**  
24 **or directive, or, if none or the agent is not reasonably available, another person**  
25 **authorized by law other than Sections 1 to 25 of this Act to make health-care**  
26 **decisions on behalf of the prospective donor, shall act for the donor to resolve the**  
27 **conflict. Information relevant to the resolution of the conflict may be obtained**

1 from the appropriate procurement organization and any other person authorized  
 2 to make an anatomical gift for the prospective donor under Section 8 of this Act.  
 3 Before the resolution of the conflict, measures necessary to ensure the medical  
 4 suitability of the part from a prospective donor may be administered unless it is  
 5 determined that the administration of those measures would not provide the  
 6 prospective donor appropriate end-of-life care, or it can be anticipated by  
 7 reasonable medical judgment that such measures would result in or hasten the  
 8 prospective donor's death. If the conflict is not resolved expeditiously, the  
 9 direction of the declaration or advance directive controls.

10 ➔SECTION 21. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
 11 READ AS FOLLOWS:

12 (1) A medical examiner, coroner, and organ and tissue procurement organizations  
 13 shall cooperate with each other to maximize the opportunity to recover  
 14 anatomical gifts for the purpose of transplantation and therapy.

15 (2) If a medical examiner or coroner receives notice from a procurement  
 16 organization that an anatomical gift might be available or was made with respect  
 17 to a decedent whose body is under the jurisdiction of the medical examiner or  
 18 coroner and a postmortem examination is going to be performed, unless the  
 19 medical examiner or coroner denies recovery in accordance with Section 22 of  
 20 this Act, the medical examiner or coroner or designee shall conduct, when  
 21 practicable, a postmortem examination of the body or the part in a manner and  
 22 within a period compatible with its preservation for the purposes of the gift.

23 (3) A part may not be removed from the body of a decedent under the jurisdiction of  
 24 a medical examiner or coroner for transplantation and therapy unless the part is  
 25 the subject of an anatomical gift of organs or tissues for transplantation.

26 ➔SECTION 22. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
 27 READ AS FOLLOWS:

1 (1) Upon request of a procurement organization, a medical examiner or coroner  
2 shall release to the procurement organization the name, contact information, and  
3 available medical and social history of a decedent whose body is under the  
4 jurisdiction of the medical examiner or coroner. If the decedent's body or part is  
5 medically suitable for transplantation or therapy, the medical examiner or  
6 coroner may release relevant postmortem examination results to the procurement  
7 organization. The procurement organization may make a subsequent disclosure  
8 of the postmortem examination results or other information received from the  
9 medical examiner or coroner only if relevant to transplantation or therapy.

10 (2) The medical examiner or coroner may conduct a medicolegal investigation by  
11 reviewing all medical records, laboratory test results, X-rays, other diagnostic  
12 results, and other information that any person possesses about a donor or  
13 prospective donor whose body is under the jurisdiction of the medical examiner  
14 or coroner that the medical examiner or coroner determines may be relevant to  
15 the investigation.

16 (3) A person that has any information requested by a medical examiner or coroner  
17 pursuant to subsection (2) of this section shall provide that information as  
18 expeditiously as possible to allow the medical examiner or coroner to conduct the  
19 medicolegal investigation within a period compatible with the preservation of  
20 parts for the purpose of transplantation or therapy.

21 (4) If an anatomical gift has been or might be made of a part of a decedent whose  
22 body is under the jurisdiction of the medical examiner or coroner and a  
23 postmortem examination is not required, or the medical examiner or coroner  
24 determines that a postmortem examination is required but that the recovery of the  
25 part that is the subject of an anatomical gift will not interfere with the  
26 examination, the medical examiner or coroner and the procurement organization  
27 shall cooperate in the timely removal of the part from the decedent for the

1 purpose of transplantation or therapy.

2 (5) The medical examiner and procurement organizations shall enter into an  
 3 agreement setting forth protocols and procedures to govern relations between the  
 4 parties when an anatomical gift of a part from a decedent under the jurisdiction  
 5 of the medical examiner has been or might be made, but the medical examiner  
 6 believes that the recovery of the part could interfere with the postmortem  
 7 investigation into the decedent's cause or manner of death. Decisions regarding  
 8 the recovery of organs, tissue, and eyes from such a decedent shall be made in  
 9 accordance with the agreement. In the event that the medical examiner or  
 10 coroner denies recovery of an anatomical gift, the procurement organization may  
 11 request the chief medical examiner to reconsider the denial and to permit the  
 12 recovery to proceed. The parties shall evaluate the effectiveness of the protocols  
 13 and procedures at regular intervals.

14 (6) If the medical examiner or coroner or designee allows recovery of a part under  
 15 subsection (4) or (5) of this section, the procurement organization, upon request,  
 16 shall cause the physician or technician who removes the part to provide the  
 17 medical examiner or coroner with a record describing the condition of the part, a  
 18 biopsy, a photograph, and any other information and observations that would  
 19 assist in the postmortem examination.

20 (7) If the chief medical examiner or coroner determines that a medical examiner or  
 21 designee is required to be present at a removal procedure under subsection (5) of  
 22 this section, upon request the procurement organization requesting the recovery  
 23 of the part shall reimburse the medical examiner, or coroner, or designee for the  
 24 additional cost incurred in complying with subsection (5) of this section.

25 ➔ SECTION 23. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
 26 READ AS FOLLOWS:

27 In applying and construing the Revised Uniform Anatomical Gift Act, Sections 1 to 25



1 of this Act, consideration shall be given to the need to promote uniformity of the law  
 2 with respect to its subject matter among states that enact it.

3 ➔SECTION 24. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
 4 READ AS FOLLOWS:

5 The Revised Uniform Anatomical Gift Act, Sections 1 to 25 of this Act, modifies, limits,  
 6 and supersedes the Electronic Signatures in Global and National Commerce Act, 15  
 7 U.S.C. secs. 7001 et seq., but does not modify, limit, or supersede sec. 101(a) of that act,  
 8 15 U.S.C. sec. 7001, or authorize electronic delivery of any of the notices described in  
 9 sec. 103(b) of that act, 15 U.S.C. sec. 7003(b).

10 ➔SECTION 25. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
 11 READ AS FOLLOWS:

12 Sections 1 to 25 of this Act may be cited as the Revised Uniform Anatomical Gift Act.

13 ➔Section 26. KRS 311.187 is repealed, reenacted, and amended as a new section  
 14 of KRS Chapter 311 to read as follows:

15 (1) In any case in which a patient is in need of a cornea or corneal tissue for a  
 16 transplant, the coroner, medical examiner, or his appropriately qualified designee  
 17 with training in ophthalmologic techniques may, upon the request of any person  
 18 authorized under Section 10 of this Act~~[KRS 311.185]~~, provide or authorize the  
 19 removal of the cornea or corneal tissue by a qualified physician under the following  
 20 conditions:

21 (a) The decedent has been defined as a "coroner's case" as set forth by KRS  
 22 72.405(2), an autopsy has been ordered pursuant to KRS 72.410, and the  
 23 cornea or corneal tissue are suitable for transplant;

24 (b) No objection by the next of kin is known by the coroner or medical examiner;  
 25 and

26 (c) The removal of the cornea or corneal tissue will not interfere with the  
 27 subsequent course of an investigation or autopsy or alter the post mortem

1 facial appearance.

2 (2) The medical examiner, coroner, or his appropriately qualified designee or any  
3 persons authorized under Section 10 of this Act~~[KRS 311.185]~~ shall not be held  
4 liable in any civil or criminal action for failure to obtain consent of the next of kin.

5 (3) An individual certified by a department of ophthalmology in an accredited school of  
6 medicine as having received competent training, may remove corneas for gift after  
7 proper certification of death by a physician and in compliance with the provisions of  
8 Sections 3, 8, 10, and 13 of this Act~~[KRS 311.175]~~.

9 ➔Section 27. KRS 311.243 is repealed and reenacted as a new section of KRS  
10 Chapter 311 to read as follows:

11 The family of any individual whose organ is donated for transplantation shall not be  
12 financially liable for any cost related to the evaluation of donor organ suitability and any  
13 cost of retrieval of the organ.

14 ➔Section 28. KRS 194A.030 is amended to read as follows:

15 The cabinet consists of the following major organizational units, which are hereby  
16 created:

17 (1) Office of the Secretary. Within the Office of the Secretary, there shall be an Office  
18 of Legislative and Public Affairs, an Office of Legal Services, and an Office of  
19 Inspector General.

20 (a) The Office of Legislative and Public Affairs shall be responsible for the  
21 development and implementation of the major legislative and policy  
22 initiatives of the cabinet, and shall include oversight of administrative  
23 hearings, legislative affairs, and communications with internal and external  
24 audiences of the cabinet. The Office of Legislative and Public Affairs shall be  
25 headed by an executive director who shall be appointed by the secretary with  
26 the approval of the Governor under KRS 12.050.

27 (b) The Office of Legal Services shall provide legal advice and assistance to all

units of the cabinet in any legal action in which it may be involved. The Office of Legal Services shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney, giving legal advice and opinions concerning the operation of all programs in the cabinet. The Office of Legal Services shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105.

(c) The Office of Inspector General shall be responsible for:

1. The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;
2. Licensing and regulatory functions as the secretary may delegate;
3. Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of Sections 1 to 25, 26, and 27 of this Act ~~[KRS 311.165 to 311.235, 311.241, 311.243, 311.245, and 311.247]~~; and
4. The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority.

The Office of Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary;

1 (2) Department for Medicaid Services. The Department for Medicaid Services shall  
2 serve as the single state agency in the Commonwealth to administer Title XIX of the  
3 Federal Social Security Act. The Department for Medicaid Services shall be headed  
4 by a commissioner for Medicaid services, who shall be appointed by the secretary  
5 with the approval of the Governor under KRS 12.050. The commissioner for  
6 Medicaid services shall be a person who by experience and training in  
7 administration and management is qualified to perform the duties of this office. The  
8 commissioner for Medicaid services shall exercise authority over the Department  
9 for Medicaid Services under the direction of the secretary and shall only fulfill those  
10 responsibilities as delegated by the secretary;

11 (3) Department for Public Health. The Department for Public Health shall develop and  
12 operate all programs of the cabinet that provide health services and all programs for  
13 assessing the health status of the population for the promotion of health and the  
14 prevention of disease, injury, disability, and premature death. This shall include but  
15 not be limited to oversight of the Division of Women's Physical and Mental Health.  
16 The Department for Public Health shall be headed by a commissioner for public  
17 health who shall be appointed by the secretary with the approval of the Governor  
18 under KRS 12.050. The commissioner for public health shall be a duly licensed  
19 physician who by experience and training in administration and management is  
20 qualified to perform the duties of this office. The commissioner shall advise the  
21 head of each major organizational unit enumerated in this section on policies, plans,  
22 and programs relating to all matters of public health, including any actions  
23 necessary to safeguard the health of the citizens of the Commonwealth. The  
24 commissioner shall serve as chief medical officer of the Commonwealth. The  
25 commissioner for public health shall exercise authority over the Department for  
26 Public Health under the direction of the secretary and shall only fulfill those  
27 responsibilities as delegated by the secretary;

- 1 (4) Department for Mental Health and Mental Retardation Services. The Department  
2 for Mental Health and Mental Retardation Services shall develop and administer  
3 programs for the prevention of mental illness, mental retardation, brain injury,  
4 developmental disabilities, and substance abuse disorders and shall develop and  
5 administer an array of services and support for the treatment, habilitation, and  
6 rehabilitation of persons who have a mental illness or emotional disability, or who  
7 have mental retardation, brain injury, developmental disability, or a substance abuse  
8 disorder. The Department for Mental Health and Mental Retardation Services shall  
9 be headed by a commissioner for mental health and mental retardation who shall be  
10 appointed by the secretary with the approval of the Governor under KRS 12.050.  
11 The commissioner for mental health and mental retardation shall be by training and  
12 experience in administration and management qualified to perform the duties of the  
13 office. The commissioner for mental health and mental retardation shall exercise  
14 authority over the department under the direction of the secretary and shall only  
15 fulfill those responsibilities as delegated by the secretary;
- 16 (5) Commission for Children with Special Health Care Needs. The duties,  
17 responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed  
18 by the commission. The commission shall advocate the rights of children with  
19 disabilities and, to the extent that funds are available, shall provide the services and  
20 facilities for children with disabilities as are deemed appropriate by the commission.  
21 The commission shall be composed of seven (7) members appointed by the  
22 Governor to serve a term of office of four (4) years. The commission may  
23 promulgate administrative regulations under KRS Chapter 13A as may be necessary  
24 to implement and administer its responsibilities. The duties, responsibilities, and  
25 authority of the Commission for Children with Special Health Care Needs shall be  
26 performed through the office of the executive director of the commission. The  
27 executive director shall be appointed by the Governor under KRS 12.040, and the

1 commission may at any time recommend the removal of the executive director upon  
2 filing with the Governor a full written statement of its reasons for removal. The  
3 executive director shall report directly to the Commission for Children with Special  
4 Health Care Needs and serve as the commission's secretary;

5 (6) Office of Health Policy. The Office of Health Policy shall lead efforts to coordinate  
6 health care policy, including Medicaid, mental health and mental retardation  
7 services, public health, certificate of need, health insurance, and the state employee  
8 health insurance program. The duties, responsibilities, and authority pertaining to  
9 the certificate of need functions and the licensure appeal functions, as set out in  
10 KRS Chapter 216B, shall be performed by this office. The Office of Health Policy  
11 shall be headed by an executive director who shall be appointed by the secretary  
12 with the approval of the Governor pursuant to KRS 12.050;

13 (7) Department for Human Support Services. The Department for Human Support  
14 Services shall streamline the various responsibilities associated with the human  
15 services programs for which the cabinet is responsible. This shall include, but not  
16 be limited to, oversight of the Division of Child Abuse and Domestic Violence  
17 Services, the Division of Family Resource and Youth Services Centers, and the  
18 Kentucky Commission on Community Volunteerism and Services. The Department  
19 for Human Support Services shall be headed by a commissioner for human support  
20 services who shall be appointed by the secretary with the approval of the Governor  
21 under KRS 12.050. The commissioner for human support services shall be by  
22 training and experience in administration and management qualified to perform the  
23 duties of the office. The commissioner for human support services shall exercise  
24 authority over the department under the direction of the secretary and shall only  
25 fulfill those responsibilities as delegated by the secretary;

26 (8) Office of the Ombudsman. The Office of the Ombudsman shall provide  
27 professional support in the evaluation of programs, including but not limited to

1 quality improvement and information analysis and reporting, including contract  
2 monitoring, program monitoring, and the development of quality service delivery,  
3 and a review and resolution of citizen complaints about programs or services of the  
4 cabinet when those complaints are unable to be resolved through normal  
5 administrative remedies. The Office of the Ombudsman shall place an emphasis on  
6 research and best practice and program accountability and shall monitor federal  
7 compliance. The Office of the Ombudsman shall be headed by an executive director  
8 who shall be appointed by the secretary with the approval of the Governor under  
9 KRS 12.050;

10 (9) Office of Technology. The Office of Technology shall develop and maintain  
11 technology, technology infrastructure, and information management systems in  
12 support of all units of the cabinet. The Office of Technology shall be headed by a  
13 chief information officer who shall be appointed by the secretary with the approval  
14 of the Governor under KRS 12.050. The chief information officer shall exercise  
15 authority over the Office of Technology under the direction of the secretary and  
16 shall only fulfill those responsibilities as delegated by the secretary;

17 (10) Office of Human Resource Management. The Office of Human Resource  
18 Management shall coordinate, oversee, and execute all personnel, training, and  
19 management functions of the cabinet. The office shall focus on the oversight,  
20 development, and implementation of quality personnel services; curriculum  
21 development and delivery of instruction to staff; the administration, management,  
22 and oversight of training operations; health, safety, and compliance training; and  
23 equal employment opportunity compliance functions. The office shall be headed by  
24 an executive director appointed by the secretary with the approval of the Governor  
25 in accordance with KRS 12.050;

26 (11) Office of Fiscal Services. The Office of Fiscal Services shall coordinate, oversee,  
27 and execute the accounting, treasury, and financial reporting functions of the

1 cabinet. The office shall be headed by a chief financial officer appointed by the  
2 secretary with the approval of the Governor in accordance with KRS 12.050;

3 (12) Office of Contract Oversight. The Office of Contract Oversight shall coordinate,  
4 oversee, and execute the contracting and procurement processes of the cabinet and  
5 shall maintain these processes in compliance with all applicable laws, rules,  
6 regulations, and procedures. The office shall ensure that the cabinet executes its  
7 contracting and procurement processes within the highest ethical standards and with  
8 the utmost integrity. The office shall oversee existing contracts to assure that the  
9 cabinet receives those services for which it has contracted or receives funds in  
10 payment for services that it has provided by contract, and shall have responsibility  
11 for determining that the cabinet maximizes the value of dollars spent by the cabinet  
12 for commodities and services. The office shall be headed by an executive director  
13 appointed by the secretary with the approval of the Governor in accordance with  
14 KRS 12.050;

15 (13) Department for Community Based Services. The Department for Community Based  
16 Services shall administer and be responsible for child and adult protection, foster  
17 care and adoption, permanency, and services to enhance family self-sufficiency,  
18 including child care, social services, public assistance, and family and child support.  
19 The department shall be headed by a commissioner appointed by the secretary with  
20 the approval of the Governor in accordance with KRS 12.050;

21 (14) Department for Disability Determination Services. The Department for Disability  
22 Determination Services shall serve as the state unit as required by Title II and Title  
23 XVI of the Social Security Act, and shall have responsibility for determining  
24 eligibility for disability for those citizens of the Commonwealth who file  
25 applications for disability with the Social Security Administration. The department  
26 shall also make determinations for citizens of the Commonwealth who make  
27 application for the Kentucky Transitional Assistance Program and determine



1 medical exemptions for participants in the Kentucky Works Program. The  
 2 department shall be headed by a commissioner appointed by the secretary with the  
 3 approval of the Governor in accordance with KRS 12.050;

4 (15) Department for Aging and Independent Living. The Department for Aging and  
 5 Independent Living shall serve as the state unit as designated by the Administration  
 6 on Aging Services under the Older Americans Act and shall have responsibility for  
 7 administration of the federal community support services, in-home services, meals,  
 8 family and caregiver support services, elder rights and legal assistance, senior  
 9 community services employment program, the state health insurance assistance  
 10 program, state home and community based services including home care,  
 11 Alzheimer's respite services and the personal care attendant program, certifications  
 12 of adult day care and assisted living facilities, the state Council on Alzheimer's  
 13 Disease and other related disorders, and the Institute on Aging. The department  
 14 shall also administer the Long-Term Care Ombudsman Program and the Medicaid  
 15 Home and Community Based Waivers Consumer Directed Option (CDO) Program.  
 16 The department shall serve as the information and assistance center for aging and  
 17 disability services and administer multiple federal grants and other state initiatives.  
 18 The department shall be headed by a commissioner appointed by the secretary with  
 19 the approval of the Governor in accordance with KRS 12.050; and

20 (16) The Governor's Office of Wellness and Physical Activity shall be responsible for  
 21 establishing and implementing a health, wellness, and fitness program for Kentucky  
 22 and to promote a healthy lifestyle for all citizens of the Commonwealth as defined  
 23 in KRS 194A.085.

24 ➔Section 29. KRS 216.267 is amended to read as follows:

25 (1) The duties and responsibilities of the board shall be to implement and oversee the  
 26 operation of an electronic health network in this Commonwealth, to be known as  
 27 the Ke-HN.

1 (2) The board shall:

2 (a) Exercise all of the administrative functions of the board;

3 (b) Appoint an advisory group that shall meet at least quarterly for the purpose of  
4 collaborating with health-care providers and payors, computer technology  
5 companies, telecommunication companies, and other affected entities to  
6 ensure input into the implementation of the Ke-HN;

7 (c) Review models for an electronic health network;

8 (d) Oversee the development of comparative business cases for the models  
9 reviewed and choose a model to be implemented in this Commonwealth. In  
10 selecting a model for implementation, the board shall consider the following  
11 elements:

12 1. Various models and configurations for Ke-HN, either as developed from  
13 the board's research or as recommended by public and private experts.  
14 Each model or configuration shall be capable of supporting  
15 administrative and clinical functions listed in subsection (4) of this  
16 section, including the capability to integrate with an electronic Medicaid  
17 management information system, provide immediate health alerts to  
18 health-care providers across the state, support health-care provider  
19 education related to the identification and treatment of rare and unusual  
20 diseases, serve as a registry of the existence and location of advance  
21 directives related to health care or mental health treatment, and serve as  
22 a registry of organ donations. The model chosen may be implemented in  
23 phases, as determined by the board;

24 2. Projected costs of the network, indicating those which would be  
25 allocated to state government, health-care providers, insurers, or others;

26 3. Options for financing the start-up, administrative, and maintenance  
27 costs, projected returns on investments, a timetable for realizing those

- 1 returns, and any proposed subscription or transaction fees associated
- 2 with the Ke-HN;
- 3 4. Procedures intended to secure protected health information in
- 4 accordance with HIPAA;
- 5 5. Timetables for implementation of the Ke-HN, whether as a fully
- 6 established network, in phases, or through the use of a pilot project or
- 7 regional approach to the Ke-HN;
- 8 6. Suggested incentives to promote the use of Ke-HN by health care
- 9 providers and payors, and the Medicaid program; and
- 10 7. Incentives, including but not limited to tax credits, low-interest loans,
- 11 and grants, under Subchapters 22, 23, 24, 26, and 28 of KRS Chapter
- 12 154 for a company that develops or manufactures software necessary for
- 13 the development of the Ke-HN, if the company meets all the eligibility
- 14 requirements under the respective subchapter in KRS Chapter 154;
- 15 (e) Receive comments from the advisory group created in paragraph (b) of this
- 16 subsection;
- 17 (f) Submit a description of the model chosen for implementation to the
- 18 Legislative Research Commission for the opportunity for any comments;
- 19 (g) If state funds are required for implementation of the model chosen, seek
- 20 funding through the appropriations process;
- 21 (h) Oversee the implementation of the model chosen subject to the appropriation
- 22 of funds. Oversight shall include the following:
- 23 1. Developing any central interchange, including any central server and
- 24 software;
- 25 2. Developing the Ke-HN of providers and payors who participate in the
- 26 network, which shall be on a voluntary basis;
- 27 3. Making recommendations regarding the features and functions which

- 1 shall be included in the distributed components of the network; and
- 2 4. Performing an outcomes assessment of the benefits achieved by the
- 3 network;
- 4 (i) Identify and adopt standards for all computer systems communicating with the
- 5 Ke-HN, including but not limited to:
- 6 1. The HIPAA standards for electronic transactions as the federal
- 7 regulations become final, or more stringent standards for content and
- 8 networking as determined by the board;
- 9 2. Medical lexicon for administrative billing and clinical purposes;
- 10 3. Procedure and billing codes; and
- 11 4. Prevalent health care industry standards for software and networking
- 12 that ensure that applications work on all types of computer systems and
- 13 equipment;
- 14 (j) Establish procedures to ensure that Ke-HN transactions are in compliance
- 15 with HIPAA guidelines;
- 16 (k) Facilitate the implementation of the federal HIPAA guidelines, and identify
- 17 any additional variables specific to Kentucky that are required to be in
- 18 transactions within the HIPAA guidelines;
- 19 (l) Oversee the operations of the Ke-HN, including but not limited to making
- 20 recommendations for financing the central interchange for the network and
- 21 making recommendations to organizations about implementing the network in
- 22 their respective organizations;
- 23 (m) Oversee the development of the central interchange that supports
- 24 communication between components of the Medicaid management
- 25 information system;
- 26 (n) Implement educational efforts about the Ke-HN;
- 27 (o) Develop incentives for providers and payors to use the Ke-HN;

- 1       (p) Identify options for, adopt, and implement approaches to various aspects of
- 2           the Ke-HN necessary for its creation and operation, including but not limited
- 3           to technology architecture, governance and oversight, development and
- 4           implementation plans, and other areas identified by the board relating to its
- 5           charge;
- 6       (q) Facilitate the development of private and public partnerships to build the Ke-
- 7           HN;
- 8       (r) Assign priority in phasing in the network to geographical locations that are
- 9           critical to homeland security and protection of the Commonwealth's energy
- 10          production;
- 11       (s) Collaborate with federal agencies in the development and implementation of
- 12          the Ke-HN as a demonstration model for the nation;
- 13       (t) Collaborate with the Kentucky Health Care Infrastructure Authority created
- 14          under KRS 216.261;
- 15       (u) Assist with the securing of state, federal, or private funding for the Kentucky
- 16          Health Care Infrastructure Authority created under KRS 216.261;
- 17       (v) Stimulate the development of state and local population health information
- 18          capacities;
- 19       (w) Promulgate administrative regulations in accordance with KRS Chapter 13A
- 20          necessary to carry out the responsibilities of the board;
- 21       (x) Receive and dispense funds appropriated for its use by the General Assembly
- 22          or may solicit, apply for, and receive any funds, property, or services from any
- 23          person, governmental agency, or organization to carry out its statutory
- 24          responsibilities;
- 25       (y) Report to the Governor, secretary of the Cabinet for Health and Family
- 26          Services, commissioner of the Department of Commercialization and
- 27          Innovation, Legislative Research Commission, Interim Joint Committee on

1 Health and Welfare, and Interim Joint Committee on Banking and Insurance  
 2 annually on the development of the Ke-HN and the impact on quality and cost  
 3 of health care; and

4 (z) Collaborate with the Telehealth Board to link functions of the telehealth  
 5 network to the Ke-HN, as determined by the Telehealth Board.

6 (3) The board may:

7 (a) Use any software program or expand any Medicaid management information  
 8 system or electronic provider and payor network developed by the Medicaid  
 9 program to support electronic health transactions between payors, insurers,  
 10 health-care providers, and patients that are not Medicaid-related, unless  
 11 prohibited by federal law or regulation;

12 (b) Contract, in accordance with KRS Chapter 45A, with an independent third  
 13 party or a public or nonprofit e-health corporation for any service necessary to  
 14 carry out the responsibilities of the board subject to the appropriation of funds;

15 (c) Award grants to health-care providers and payors to implement projects  
 16 related to health informatics, with highest priority given to health-care  
 17 providers and payors that serve rural and inner-city areas of this  
 18 Commonwealth;

19 (d) Enter into an agreement with the University of Kentucky or the University of  
 20 Louisville to develop comparative business models or implement any phase of  
 21 the Ke-HN, using private or federal funds received by the university for the  
 22 purpose designated in the agreement;

23 (e) Create a public or nonprofit e-health corporation to facilitate public-private  
 24 collaboration in development and implementation of the Ke-HN.

25 1. A public or nonprofit e-health organization may receive and expend  
 26 funds appropriated by the General Assembly and may solicit, apply for,  
 27 and receive any funds, grants, contracts, contributions, property, or

1 services from any person, governmental agency, or other organization to  
 2 carry out the responsibilities given to it by the Ke-HN Board.

3 2. Funds appropriated to a public or nonprofit e-health corporation shall  
 4 not lapse at the end of a state fiscal year and shall be used solely for the  
 5 purposes for which the funds were appropriated.

6 3. A public or nonprofit e-health corporation created under this paragraph  
 7 shall:

8 a. Follow standard accounting practices;

9 b. Submit to an annual financial audit by an independent auditor;

10 c. Submit a quarterly report of receipts and expenditures to the  
 11 secretary of the Cabinet for Health and Family Services and the  
 12 Ke-HN Board no later than sixty (60) days after the end of a  
 13 quarter; and

14 d. Submit an annual financial and progress report to the Governor,  
 15 the secretary of the Finance and Administration Cabinet, and the  
 16 Interim Joint Committees on Appropriations and Revenue and  
 17 Health and Welfare by September 30 following the end of each  
 18 state fiscal year. The annual report shall include a report of receipts  
 19 and expenditures, the financial audit, and a report on the status and  
 20 progress of the corporation's initiatives; and

21 (f) Promulgate administrative regulations in accordance with KRS Chapter 13A  
 22 to implement the provisions of paragraph (e) of this subsection.

23 (4) In its fully implemented form, the Kentucky e-Health Network is envisioned to  
 24 support or encourage the following types of electronic transactions or activities that  
 25 would be phased in over time:

26 (a) Automatic drug-drug interaction and allergy alerts;

27 (b) Automatic preventive medicine alerts;

- 1 (c) Electronic access to the results of laboratory, X-ray, or other diagnostic
- 2 examinations;
- 3 (d) Disease management;
- 4 (e) Disease surveillance and reporting;
- 5 (f) Educational offerings for health-care providers;
- 6 (g) Health alert system and other applications related to homeland security;
- 7 (h) Links to drug formularies and cost information;
- 8 (i) Links to evidence-based medical practice;
- 9 (j) Links to patient educational materials;
- 10 (k) Medical record information transfer to other providers with the patient's
- 11 consent;
- 12 (l) Physician order entry;
- 13 (m) Prescription drug tracking;
- 14 (n) Registries for vital statistics, cancer, case management, immunizations, and
- 15 other public health registries;
- 16 (o) Registry of the existence and location of advance directives related to health
- 17 care and mental health treatment;
- 18 (p) Registry of organ donations executed under Sections 1 to 25 of this Act ~~KRS~~
- 19 ~~311.165 to 311.235~~];
- 20 (q) Secured electronic consultations between providers and patients;
- 21 (r) A single-source insurance credentialing system for health care providers; and
- 22 (s) The following transactions covered by HIPAA:
- 23 1. Electronic health-care claims submission;
- 24 2. Electronic payment;
- 25 3. Coordination of benefits;
- 26 4. Health-care claim status;
- 27 5. Enrollment and disenrollment in a health plan;



- 1           6.    Eligibility for a health plan;
- 2           7.    Health plan premium payments;
- 3           8.    Referral certification and authorization;
- 4           9.    First report of injury; and
- 5           10.   Health claims attachments.

6           ➔Section 30. KRS 311.623 is amended to read as follows:

- 7    (1)   An adult with decisional capacity may make a written living will directive that does
- 8           any or all of the following:
- 9           (a)   Directs the withholding or withdrawal of life-prolonging treatment; or
- 10          (b)   Directs the withholding or withdrawal of artificially provided nutrition or
- 11                hydration; or
- 12          (c)   Designates one (1) or more adults as a surrogate or successor surrogate to
- 13                make health care decisions on behalf of the grantor. During any period in
- 14                which two (2) or more surrogates are serving, all decisions shall be by
- 15                unanimous consent of all the acting surrogates unless the advance directive
- 16                provides otherwise; or
- 17          (d)   Directs the giving of all or any part of the adult's body upon death for any
- 18                purpose specified in Section 10 of this Act ~~[KRS 311.185]~~.
- 19    (2)   Except as provided in KRS 311.633, a living will directive made pursuant to this
- 20           section shall be honored by a grantor's family, regular family physician or attending
- 21           physician, and any health care facility of or in which the grantor is a patient.
- 22    (3)   For purposes of KRS 311.621 to 311.643, notification to any emergency medical
- 23           responder as defined by KRS Chapter 211 or any paramedic as defined by KRS
- 24           Chapter 311, of a person's authentic wish not to be resuscitated shall be recognized
- 25           only if on a standard form or identification approved by the Kentucky Board of
- 26           Medical Licensure, in consultation with the Cabinet for Health and Family Services.

27          ➔Section 31. KRS 311.625 is amended to read as follows:

1 (1) A living will directive made pursuant to KRS 311.623 shall be substantially in the  
 2 following form, and may include other specific directions which are in accordance  
 3 with accepted medical practice and not specifically prohibited by any other statute.  
 4 If any other specific directions are held by a court of appropriate jurisdiction to be  
 5 invalid, that invalidity shall not affect the directive.

6 "Living Will Directive

7 My wishes regarding life-prolonging treatment and artificially provided nutrition and  
 8 hydration to be provided to me if I no longer have decisional capacity, have a terminal  
 9 condition, or become permanently unconscious have been indicated by checking and  
 10 initialing the appropriate lines below. By checking and initialing the appropriate lines, I  
 11 specifically:

12 .... Designate ..... as my health care surrogate(s) to make health care decisions  
 13 for me in accordance with this directive when I no longer have decisional capacity. If  
 14 ..... refuses or is not able to act for me, I designate ..... as  
 15 my health care surrogate(s).

16 Any prior designation is revoked.

17 If I do not designate a surrogate, the following are my directions to my attending  
 18 physician. If I have designated a surrogate, my surrogate shall comply with my wishes as  
 19 indicated below:

20 .... Direct that treatment be withheld or withdrawn, and that I be permitted to die naturally  
 21 with only the administration of medication or the performance of any medical treatment  
 22 deemed necessary to alleviate pain.

23 .... DO NOT authorize that life-prolonging treatment be withheld or withdrawn.

24 .... Authorize the withholding or withdrawal of artificially provided food, water, or other  
 25 artificially provided nourishment or fluids.

26 .... DO NOT authorize the withholding or withdrawal of artificially provided food, water,  
 27 or other artificially provided nourishment or fluids.

1 .... Authorize my surrogate, designated above, to withhold or withdraw artificially  
 2 provided nourishment or fluids, or other treatment if the surrogate determines that  
 3 withholding or withdrawing is in my best interest; but I do not mandate that withholding  
 4 or withdrawing.

5 .... Authorize the giving of all or any part of my body upon death for any purpose  
 6 specified in Section 10 of this Act ~~[KRS 311.185]~~.

7 .... DO NOT authorize the giving of all or any part of my body upon death.

8 In the absence of my ability to give directions regarding the use of life-prolonging  
 9 treatment and artificially provided nutrition and hydration, it is my intention that this  
 10 directive shall be honored by my attending physician, my family, and any surrogate  
 11 designated pursuant to this directive as the final expression of my legal right to refuse  
 12 medical or surgical treatment and I accept the consequences of the refusal.

13 If I have been diagnosed as pregnant and that diagnosis is known to my attending  
 14 physician, this directive shall have no force or effect during the course of my pregnancy.

15 I understand the full import of this directive and I am emotionally and mentally  
 16 competent to make this directive.

17 Signed this .... day of ....., 19...

18 Signature and address of the grantor.

19 In our joint presence, the grantor, who is of sound mind and eighteen (18) years of age, or  
 20 older, voluntarily dated and signed this writing or directed it to be dated and signed for  
 21 the grantor.

22 Signature and address of witness.

23 Signature and address of witness.

24 OR

25 STATE OF KENTUCKY)

26 .....County)

27 Before me, the undersigned authority, came the grantor who is of sound mind and

1 eight (18) years of age, or older, and acknowledged that he voluntarily dated and  
 2 signed this writing or directed it to be signed and dated as above.

3 Done this .... day of ....., 19...

4 Signature of Notary Public or other officer.

5 Date commission expires:.....

6 Execution of this document restricts withholding and withdrawing of some medical  
 7 procedures. Consult Kentucky Revised Statutes or your attorney."

8 (2) An advance directive shall be in writing, dated, and signed by the grantor, or at the  
 9 grantor's direction, and either witnessed by two (2) or more adults in the presence of  
 10 the grantor and in the presence of each other, or acknowledged before a notary  
 11 public or other person authorized to administer oaths. None of the following shall  
 12 be a witness to or serve as a notary public or other person authorized to administer  
 13 oaths in regard to any advance directive made under this section:

14 (a) A blood relative of the grantor;

15 (b) A beneficiary of the grantor under descent and distribution statutes of the  
 16 Commonwealth;

17 (c) An employee of a health care facility in which the grantor is a patient, unless  
 18 the employee serves as a notary public;

19 (d) An attending physician of the grantor; or

20 (e) Any person directly financially responsible for the grantor's health care.

21 (3) A person designated as a surrogate pursuant to an advance directive may resign at  
 22 any time by giving written notice to the grantor; to the immediate successor  
 23 surrogate, if any; to the attending physician; and to any health care facility which is  
 24 then waiting for the surrogate to make a health care decision.

25 (4) An employee, owner, director, or officer of a health care facility where the grantor  
 26 is a resident or patient shall not be designated or act as surrogate unless related to  
 27 the grantor within the fourth degree of consanguinity or affinity or a member of the

1 same religious order.

2 ➔Section 32. KRS 186.412 is amended to read as follows:

- 3 (1) (a) A person who was under the age of eighteen (18) years at the time of  
 4 application for an instruction permit and is eighteen (18) years of age or older  
 5 may apply for an operator's license to operate a motor vehicle, motorcycle, or  
 6 moped if the person has possessed the valid instruction permit for at least one  
 7 hundred eighty (180) days and has completed a driver training program under  
 8 KRS 186.410(4).
- 9 (b) A person who has attained the age of eighteen (18) years and is under the age  
 10 of twenty-one (21) at the time of application for an instruction permit may  
 11 apply for an operator's license to operate a motor vehicle, motorcycle, or  
 12 moped if the person has possessed the valid instruction permit for at least one  
 13 hundred eighty (180) days.
- 14 (c) A person who is at least twenty-one (21) years of age at the time of  
 15 application for an instruction permit may apply for an operator's license to  
 16 operate a motor vehicle, motorcycle, or moped if the person has possessed the  
 17 valid instruction permit for at least thirty (30) days.
- 18 (2) Except as provided in subsection (4) of this section, a person shall apply for an  
 19 operator's license in the office of the circuit clerk of the county where the person  
 20 lives. The application form shall require the person's:
- 21 (a) Full legal name and signature;
- 22 (b) Date of birth;
- 23 (c) Social Security number, federal tax identification number, a letter from the  
 24 Social Security Administration declining to issue a Social Security number, or  
 25 a notarized affidavit from the applicant to the Transportation Cabinet swearing  
 26 that the person either does not have a Social Security number, or refuses to  
 27 divulge his or her Social Security number, based upon religious convictions;

- 1 (d) Sex;
- 2 (e) Present Kentucky resident address, exclusive of a post office box address
- 3 alone;
- 4 (f) Other information necessary to permit the application of United States citizens
- 5 to also serve as an application for voter registration;
- 6 (g) A brief physical description of the applicant;
- 7 (h) A statement if the person has previously been licensed as an operator in
- 8 another state;
- 9 (i) Proof of the person's Kentucky residency, including but not limited to a deed
- 10 or property tax bill, utility agreement or utility bill, or rental housing
- 11 agreement; and
- 12 (j) Other information the cabinet may require by administrative regulation
- 13 promulgated under KRS Chapter 13A.
- 14 (3) A permanent resident shall present one (1) of the following documents issued by the
- 15 United States Department of Justice, Immigration and Naturalization Service:
- 16 (a) An I-551 card with a photograph of the applicant; or
- 17 (b) A form with the photograph of the applicant or a passport with a photograph
- 18 of the applicant on which the United States Department of Justice,
- 19 Immigration and Naturalization Service has stamped the following:
- 20 "Processed for I-551. Temporary evidence of lawful admission for permanent
- 21 residence. Valid until ----. Employment authorized."
- 22 (4) If the person is not a United States citizen and has not been granted status as a
- 23 permanent resident of the United States, the person's application for an original
- 24 operator's license shall be submitted to either the Transportation Cabinet in
- 25 Frankfort or a Transportation Cabinet field office.
- 26 (a) The application form shall be accompanied by the person's documentation
- 27 issued by the United States Department of Justice, Immigration and

1 Naturalization Service, authorizing the person to be in the United States and,  
2 if applicable, the person's international driving permit. The application form  
3 of a special status individual with a K-1 status shall be accompanied by an  
4 original or certified copy of the person's completed marriage license signed by  
5 the official who presided over the marriage ceremony and two (2) witnesses.  
6 The application form of a special status individual with a K-1 status shall also  
7 include the person's petition to enter the United States for the purpose of  
8 marriage that contains the name of the prospective spouse. If the name of the  
9 prospective spouse on the petition does not match the name of the spouse on  
10 the marriage license, the Transportation Cabinet shall not be required to issue  
11 an operator's license.

12 (b) The Transportation Cabinet shall, within fifteen (15) days of receipt of the  
13 application, review the person's documentation and determine if the person  
14 will be issued a Kentucky operator's license. If the review of an application  
15 will take longer than fifteen (15) days, the cabinet shall continue the review,  
16 but the cabinet shall be required to make a determination in all cases within  
17 thirty (30) days of receipt of the application.

18 (c) If the cabinet determines the person may be issued an operator's license, the  
19 cabinet shall issue the person an official form that the person shall take to the  
20 office of the circuit clerk of the county where the person resides. The circuit  
21 clerk shall review the person's documentation and the official form issued by  
22 the Transportation Cabinet. If the documentation is verified as accurate, and if  
23 the person successfully completes the examinations required under KRS  
24 186.480, the circuit clerk shall issue the person a Kentucky operator's license.

25 (d) Except as provided in paragraphs (e) and (f) of this subsection, a person who  
26 is not a United States citizen and who has not been granted status as a  
27 permanent resident of the United States shall apply to renew an operator's

1 license, or obtain a duplicate operator's license, in the office of the circuit  
2 clerk in the county in which the person resides.

3 (e) If a person is renewing an operator's license or is applying for a duplicate  
4 license after July 15, 2002, and the person's documentation issued by the  
5 United States Department of Justice, Immigration and Naturalization Service,  
6 has not been reviewed by either the Transportation Cabinet in Frankfort or  
7 a Transportation Cabinet field office under the provisions of this subsection,  
8 the person shall be required to apply for the renewal or duplicate with either  
9 the Transportation Cabinet in Frankfort or a Transportation Cabinet field  
10 office.

11 (f) If a person has any type of change in the person's immigration status, the  
12 person shall apply to renew an operator's license with either the Transportation  
13 Cabinet in Frankfort or a Transportation Cabinet field office.

14 (5) The circuit clerk shall issue an operator's license bearing a color photograph of the  
15 applicant and other information the cabinet may deem appropriate. The photograph  
16 shall be taken by the circuit clerk so that one (1) exposure will photograph the  
17 applicant and the application simultaneously. When taking the photograph, the  
18 applicant shall be prohibited from wearing sunglasses or any other attire that  
19 obscures any features of the applicant's face as determined by the clerk. The clerk  
20 shall require an applicant to remove sunglasses or other obscuring attire before  
21 taking the photograph required by this subsection. Any person who refuses to  
22 remove sunglasses or other attire prohibited by this section as directed by the clerk  
23 shall be prohibited from receiving an operator's license. The operator's license  
24 issued by the cabinet shall not contain the applicant's Social Security number. The  
25 cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A  
26 that develop a numbering system that uses an identification system other than Social  
27 Security numbers. If an applicant does not have a Social Security number, or the



1 applicant has submitted a notarized affidavit refusing to divulge his or her Social  
2 Security number based upon religious convictions, the Transportation Cabinet shall  
3 assign the applicant a unique identifying number. The license shall also designate  
4 by color coding and use the phrase "under 21" if the licensee is under the age of  
5 twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or  
6 "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant  
7 to KRS Chapter 281A and is under the age of twenty-one (21).

8 (6) Every applicant shall make oath to the circuit clerk as to the truthfulness of the  
9 statements contained in the form.

10 (7) (a) Except as provided in subsection (8) of this section, the circuit clerk shall  
11 issue a color photo personal identification card to any person who is a  
12 Kentucky resident and who resides in the county who complies with the  
13 provisions of this section and who applies in person in the office of the circuit  
14 clerk. An application for a personal identification card shall be accompanied  
15 by the same information as is required for an operator's license under  
16 subsection (2) of this section, except if a person does not have a fixed,  
17 permanent address, the person may use as proof of residency a signed letter  
18 from a homeless shelter, health care facility, or social service agency currently  
19 providing the person treatment or services and attesting that the person is a  
20 resident of Kentucky.

21 (b) It shall be permissible for the application form for a personal identification  
22 card to include as a person's most current resident address a mailing address,  
23 post office box, or an address provided on a voter registration card.

24 (c) Every applicant for a personal identification card shall make an oath to the  
25 circuit clerk as to the truthfulness of the statements contained on the  
26 application form. If the applicant is not the legal owner or possessor of the  
27 address provided on the application form, the applicant shall swear that he or

1 she has permission from the legal owner, authorized agent for the legal owner  
2 or possessor to use the address for purposes of obtaining the personal  
3 identification card. The personal identification card shall designate by color  
4 coding and by use of the phrase "under 21" if the applicant is under the age of  
5 twenty-one (21).

6 (d) A personal identification card shall be valid for a period of four (4) years from  
7 the date of issuance. Except as provided in this subsection, an initial or  
8 renewal personal identification card issued to a person who is not a United  
9 States citizen and who has not been granted status as a permanent resident of  
10 the United States and who is not a special status individual, but who is a  
11 Kentucky resident, shall be valid for a period equal to the length of time the  
12 person's documentation from the United States Department of Justice,  
13 Immigration and Naturalization Service is issued, or four (4) years, whichever  
14 time period is shorter. An initial or renewal personal identification card shall  
15 be valid for a period of two (2) years if the person is not a special status  
16 individual and the person's documentation issued by the United States  
17 Department of Justice, Immigration and Naturalization Service, is issued for  
18 an indefinite period of time and does not have an expiration date. The fee shall  
19 be the same as for a regular personal identification card.

20 (e) A personal identification card may be suspended or revoked if the person who  
21 was issued the card presents false or misleading information to the cabinet  
22 when applying for the card.

23 (8) A person may be issued a personal identification card if the person currently holds a  
24 valid Kentucky instruction permit or operator's license. If a person's instruction  
25 permit or operator's license has been suspended or revoked, the person may be  
26 issued a temporary personal identification card. A temporary personal identification  
27 shall be renewed annually and may be surrendered when the person applies to have

1 his or her instruction permit or operator's license reinstated.

- 2 (9) The Transportation Cabinet shall implement a voluntary statewide child  
3 identification program. The program shall issue a color photo personal  
4 identification card to a child two (2) to fifteen (15) years of age. Application for a  
5 child identification card shall be accompanied by a Social Security card and a birth  
6 certificate for the child or other proof of the child's date of birth as provided under  
7 subsection (2) of this section. The card shall contain the child's name and the toll-  
8 free number of the Kentucky Missing Persons Clearinghouse, Department of  
9 Kentucky State Police. The card shall not contain the child's Social Security  
10 number. The cabinet shall set a four dollar (\$4) fee for the child identification card.  
11 Two dollars (\$2) of the fee shall be used to cover the cabinet's cost for equipment  
12 and supplies. Two dollars (\$2) of the fee shall be an administrative fee of the circuit  
13 clerk for issuing the card which shall be deposited by the Administrative Office of  
14 the Courts into a trust and agency account for the circuit clerks and used for the  
15 purposes of hiring additional deputy clerks and providing salary adjustments to  
16 deputy clerks. The card shall expire every four (4) years on the child's birthday.  
17 Within the time period that the child identification card is valid, the card may be  
18 updated with a new photograph and information. The fee for an updated card shall  
19 be four dollars (\$4), with two dollars (\$2) of the fee going to the cabinet and two  
20 dollars (\$2) going to the Administrative Office of the Courts in the same manner as  
21 the fee for an initial card as described in this subsection. The descriptive data and a  
22 photo image of the child shall be stored in the Kentucky Driver's License  
23 Information System and may be retrieved and used by public agencies subject to the  
24 provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also  
25 be used by the Kentucky Missing Persons Clearinghouse.
- 26 (10) If a citizen of the Commonwealth currently serving in the United States military is  
27 stationed or assigned to a base or other location outside the boundaries of the

1 Commonwealth, the citizen may renew a Class D operator's license issued under  
2 this section by mail. If the citizen was issued an "under 21" operator's license, upon  
3 the date of his or her twenty-first birthday, the "under 21" operator's license may be  
4 renewed for an operator's license that no longer contains the outdated reference to  
5 being "under 21."

6 (11) A citizen of the Commonwealth renewing an operator's license by mail under  
7 subsection (10) of this section may have a personal designee apply to the circuit  
8 clerk on behalf of the citizen to renew the citizen's operator's license. An operator's  
9 license being renewed by mail under subsection (10) of this section shall be issued a  
10 license without a photograph. The license shall show in the space provided for the  
11 photograph the legend "valid without photo and signature."

12 (12) (a) If a citizen of the Commonwealth has been serving in the United States  
13 military stationed or assigned to a base or other location outside the  
14 boundaries of the Commonwealth and has allowed his or her operator's license  
15 to expire, he or she shall, within ninety (90) days of returning to the  
16 Commonwealth, be permitted to renew his or her license without having to  
17 take a written test or road test.

18 (b) A citizen who meets the criteria in paragraph (a) of this subsection shall not be  
19 convicted or cited for driving on an expired license prior to license renewal  
20 during the ninety (90) days after the person's return to the Commonwealth if  
21 the person can provide proof of his or her out-of-state service and dates of  
22 assignment.

23 (c) A citizen who meets the criteria in paragraph (a) of this subsection and who  
24 does not renew his or her license within ninety (90) days of returning to the  
25 Commonwealth shall be required to comply with the provisions of this chapter  
26 governing renewal of a license that has expired.

27 (d) If a citizen of the Commonwealth has been issued an "under 21" or "under 21

1 CDL" operator's license and the person is unable to renew the license on the  
 2 date of his twenty-first birthday, the "under 21" or "under 21 CDL" operator's  
 3 license shall be valid for ninety (90) days beyond the date of the person's  
 4 twenty-first birthday.

5 (13) The cabinet shall provide on each license to operate motor vehicles, motorcycles,  
 6 and mopeds a space for the licensed driver's:

7 (a) Blood type;

8 (b) Medical insignia if the person provides evidence that a medical identification  
 9 bracelet noting specific physical ailments or a drug allergy is being worn or  
 10 other proof as may be required by the cabinet; and

11 (c) A statement whereby the owner of the license may certify in the presence of  
 12 two (2) witnesses his willingness to make an anatomical gift under Section 4  
 13 of this Act[KRS 311.195].

14 (14) If the motor vehicle operator denotes a physical ailment or drug allergy on the  
 15 operator's license, he may apply for and shall receive, for a fee of one dollar (\$1)  
 16 paid to the circuit clerk, a medical insignia decal that may be affixed to the lower  
 17 left side of the front windshield of a motor vehicle.

18 (15) An operator's license pursuant to this section shall be designated a Class D license.

19 (16) A person shall not have more than one (1) license.

20 (17) Upon marriage, a woman applying for an operator's license or a color photo  
 21 personal identification card shall provide the circuit clerk with her marriage license  
 22 and complete an affidavit form provided by the circuit court clerk. She shall have  
 23 the following choices in regard to her full legal name as required in subsections (2)  
 24 and (7) of this section:

25 (a) Use her husband's last name;

26 (b) Retain her maiden name;

27 (c) Use her maiden name hyphenated with her husband's last name;

1 (d) Use her maiden name as a middle name and her husband's last name as her  
2 last name; or

3 (e) In the case of a previous marriage, retain that husband's last name.

4 (18) Upon issuing an operator's license or personal identification card, the clerk shall  
5 draw the recipient's attention to the location on the license relating to anatomical  
6 gifts under subsection (13)(c) of this section and offer to allow personnel in the  
7 clerk's office to serve as the witnesses to the recipient's certification of willingness  
8 to make an anatomical gift if the recipient is the person to whom the license is  
9 issued.

10 ➔Section 33. KRS 216B.300 is amended to read as follows:

11 As used in KRS 216B.300 to 216B.320 and KRS 216B.990~~(5)~~~~(7)~~, unless the context  
12 requires otherwise:

13 (1) "Cabinet" means the Cabinet for Health and Family Services or its designee.

14 "Designee" means any agency established under KRS Chapter 211 or KRS  
15 147A.050 whose duties related to this chapter shall be set forth in administrative  
16 regulation;

17 (2) "Secretary" means the secretary of the Cabinet for Health and Family Services;

18 (3) "Boarder" means a person who does not require supervision or assistance related to  
19 medication, activities of daily living, or a supervised plan of care; and

20 (4) "Boarding home" means any home, facility, institution, lodging, or other  
21 establishment, however named, which accommodates three (3) or more adults not  
22 related by blood or marriage to the owner, operator, or manager, and which offers or  
23 holds itself out to offer room and board on a twenty-four (24) hour basis for hire or  
24 compensation. It shall not include any facility which is otherwise licensed and  
25 regulated by the cabinet or any hotel as defined in KRS 219.011(3).

26 ➔Section 34. KRS 216B.990 is amended to read as follows:

27 (1) Any person who, in willful violation of this chapter, operates a health facility or

1       abortion facility without first obtaining a license or continues to operate a health  
 2       facility or abortion facility after a final decision suspending or revoking a license  
 3       shall be fined not less than five hundred dollars (\$500) nor more than ten thousand  
 4       dollars (\$10,000) for each violation.

5       (2) Any person who, in willful violation of this chapter, acquires major medical  
 6       equipment, establishes a health facility, or obligates a capital expenditure without  
 7       first obtaining a certificate of need, or after the applicable certificate of need has  
 8       been withdrawn, shall be fined one percent (1%) of the capital expenditure involved  
 9       but not less than five hundred dollars (\$500) for each violation.

10      (3) Any hospital acting by or through its agents or employees which violates any  
 11      provision of KRS 216B.400 shall be punished by a fine of not less than one hundred  
 12      dollars (\$100) nor more than five hundred dollars (\$500).

13      ~~[(4) Any hospital acting by or through its agents or employees which violates any~~  
 14      ~~provision of KRS 311.241 to 311.245 shall be punished by a fine of not less than~~  
 15      ~~one hundred dollars (\$100) nor more than five hundred dollars (\$500).~~

16      ~~(5) Any hospital violating the provisions of KRS 311.241 may be denied a license to~~  
 17      ~~operate under the provisions of this chapter.]~~

18      (4)~~[(6)]~~ Any health facility which willfully violates KRS 216B.250 shall be fined one  
 19      hundred dollars (\$100) per day for failure to post required notices and one hundred  
 20      dollars (\$100) per instance for willfully failing to provide an itemized statement  
 21      within the required time frames.

22      (5)~~[(7)]~~ In addition to the civil penalties established under KRS 216B.306(1) and (4),  
 23      any person who advertises, solicits boarders, or operates a boarding home without  
 24      first obtaining a registration as required by KRS 216B.305 and any person who aids  
 25      or abets the operation of a boarding home that is not registered shall be imprisoned  
 26      for no more than twelve (12) months.

27      (6)~~[(8)]~~ Any person or entity establishing, managing, or operating an abortion facility

or conducting the business of an abortion facility which otherwise violates any provision of this chapter or any administrative regulation promulgated thereunder regarding abortion facilities shall be subject to revocation or suspension of the license of the abortion facility. In addition, any violation of any provision of this chapter regarding abortion facilities or any administrative regulation related thereto by intent, fraud, deceit, unlawful design, willful and deliberate misrepresentation, or by careless, negligent, or incautious disregard for the statute or administrative regulation, either by persons acting individually or in concert with others, shall constitute a violation and shall be punishable by a fine not to exceed one thousand dollars (\$1,000) for each offense. Each day of continuing violation shall be considered a separate offense. The venue for prosecution of the violation shall be in any county of the state in which the violation, or any portion thereof, occurred.

~~(7)(9)~~ Any hospital acting by or through its agents or employees that violates any provision of KRS 216B.150 shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each violation.

➔Section 35. KRS 311.992 is amended to read as follows:

~~[(1) Any hospital acting by or through its agents or employees which violates any provision of KRS 311.241 to 311.245 shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).~~

~~(2) Any hospital violating the provisions of KRS 311.241 may be denied a license to operate under the provisions of KRS Chapter 216B.~~

~~(3) ]Any person who intentionally or recklessly violates KRS 311.715 shall be guilty of a Class A misdemeanor.~~

➔Section 36. The following KRS sections are repealed:

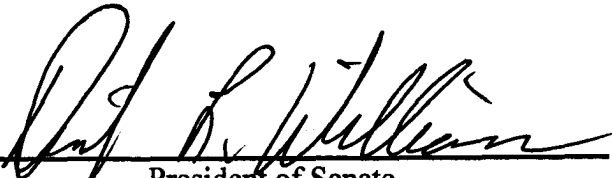
311.165 Definitions for KRS 311.165 to 311.235.

311.171 Prohibitions and restrictions relating to transplantable organs.


311.175 Persons who may execute an anatomical gift.



- 1    311.185   Persons who may become donees -- Purposes for which anatomical gifts may  
2            be made.
- 3    311.195   Manner of executing anatomical gifts.
- 4    311.205   Delivery of document of gift.
- 5    311.215   Amendment or revocation of the gift.
- 6    311.225   Rights and duties at death.
- 7    311.235   Uniformity of interpretation.
- 8    311.236   Disposition of organs given as anatomical gifts for which no donee is specified  
9            -- Reciprocal agreements among organ procurement organizations -- Restrictions  
10          upon out-of-state organ transfers.
- 11   311.237   Requirement to honor donor's wishes unless revoked.
- 12   311.241   Hospitals to establish organ-procurement protocol -- Notification to federally  
13          certified organ-procurement organization of potential availability of organ and  
14          identity of potential donor -- Reporting of information on sale, purchase, or  
15          brokering of transplantable organs.
- 16   311.245   Duty of hospital and allied health personnel to make known patient's intent to  
17          donate organ.
- 18   311.247   Duty of law enforcement and medical personnel in accident and coroners' cases.

  
\_\_\_\_\_  
President of Senate

  
\_\_\_\_\_  
Speaker-House of Representatives

Attest:   
\_\_\_\_\_  
Chief Clerk of Senate

Approved   
\_\_\_\_\_  
Governor

Date April 26, 2010